

Santa Clara Police Mobile Field Force Operations Update

Advanced Officer Training 2020



City of Santa Clara

Mobile Field Force Operations

Topics:

- Overview
- Legal Perspectives
- Team Tactics



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Examples

- Protests/Demonstrations
- Sporting Events
- Concerts
- Team 200/SCU
- Mutual Aid Requests



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Peaceful Protests



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Civil Disorder



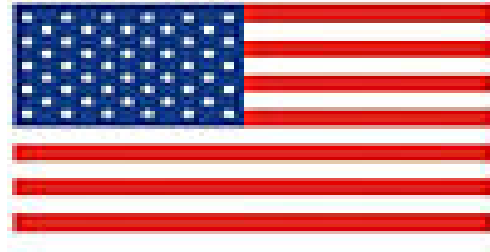
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Legal Perspectives



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First Amendment



- Right to freedom of speech, assembly, press
- Federal and State Constitutions guarantee free speech and assembly
- Highly protected by law and the courts
- Law interpreted liberally to protect these rights
- Our role is to ensure that these rights are protected



835(a) PC after AB 392

- “peace officers use deadly force **only when necessary** in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.”
- “shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.”
- “individuals with physical, mental health, developmental, or intellectual disabilities are significantly more likely to experience greater levels of physical force during police interactions, as their disability may affect their ability to understand or comply with commands from peace officers. It is estimated that individuals with disabilities are involved in between one-third and one-half of all fatal encounters with law enforcement.”

Deadly Force:

- “a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:
 - To defend against an imminent threat of death or serious bodily injury to the officer or to another person.
 - To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.”
- “A peace officer shall not use deadly force against a person based on the danger that person poses **to themselves**, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person.
- “retreat” does not mean tactical repositioning or other deescalation tactics.
- “A threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. **An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”**



Unlawful Assembly

■ 407 PC Unlawful Assembly

“Whenever two or more persons assemble together to do an unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner, such Assembly is an unlawful assembly.”

■ 409 PC Refusing to Disperse

“Every person remaining present at the place of any riot, rout, or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same is guilty of a Misdemeanor.”



Dispersal Order

"I am **(RANK and OFC NAME)**, a police officer for the City of Santa Clara. I hereby declare this to be an unlawful assembly and, in the name of the People of the State of California, command all those assembled at **(GIVE SPECIFIC LOCATION)** to immediately disperse, which means to break up this assembly. If you do not do so, you may be arrested or subject to other police action.

Other police action may include the use of force, which may inflict significant pain or result in serious injury. CA Penal Code Section 409 prohibits remaining present at an unlawful assembly. If you remain in the area just described, regardless of your purpose in remaining, you will be in violation of Penal Code Section 409.

The following routes of dispersal are available: **(GIVE THE MOST CONVENIENT ROUTE(s) OF DISPERSAL).**

You have ____ minutes **(give a reasonable amount of time – take into consideration the number of participants, location of the event, and number of exit routes)** to disperse.



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Legal Perspectives and Use of Force

**Headwaters Forest
Defense vs.
County of Humboldt
(1997)**



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Legal Perspectives and Use of Force

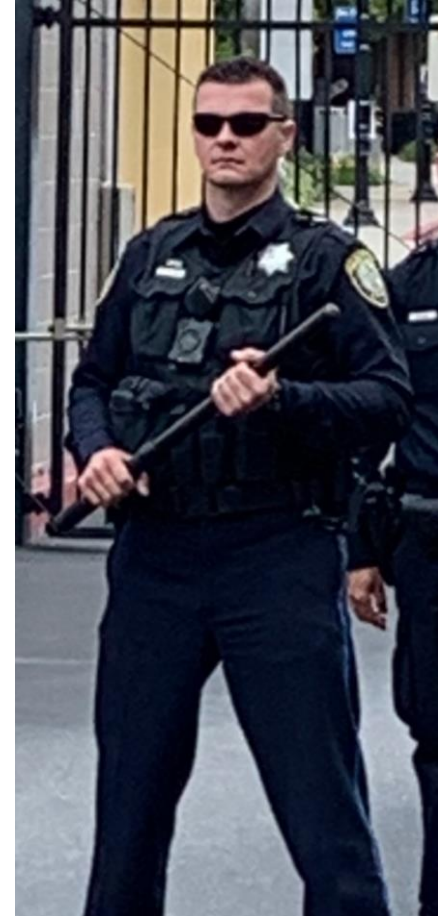
**Young
vs.
County of Los Angeles
(2011)**



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Legal Perspectives and Use of Force

- “Young's evidence shows that California law enforcement officers are taught that a baton is a deadly weapon that can cause deep bruising as well as blood clots capable of precipitating deadly strokes, and that batons should therefore be used ‘only as a response to aggressive or combative acts.’”
- Also referenced baton strikes to the head trained as appropriate only in deadly force situations.
- Identified the use of pepper spray and baton as **INTERMEDIATE WEAPONS**
- Intermediate weapons require a “strong government interest”



Legal Perspectives and Use of Force

Factors to determine degree of government interest:

1. The severity of the crime at issue
2. Whether the suspect posed an immediate threat to the safety of the officers or others
3. Whether the suspect was actively resisting arrest or attempting to evade arrest by flight
4. Any other exigent circumstances that existed at the time of the arrest.



Legal Perspectives and Use of Force

■ Deorle vs Rutherford (1996)

- “Less than deadly force that may lead to serious bodily injury may be used only when a strong government interest warrants its use, and in such circumstances should be preceded by a warning, when feasible.”

See also Bryan vs McPherson (2009)



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Legal Perspectives

Training

- Failure to train can cause a liability under 42 U.S.C. § 1983: “...level of deliberate indifference.”

The
Mercury
News

In George Floyd protest report, San Jose police...



NEWS > CRIME AND PUBLIC SAFETY • News

In George Floyd protest report, San Jose police concede training gaps but stand by response

Demonstrators take issue with characterization of protests, and continue to assert that officers were often agitators of violence



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Legal Perspectives

Use of Force Policies

- Issues that can cause confusion when multiple agencies respond to a civil disorder event:
 - o Written use of force policies
 - o Use of force addressed in civil disorder planning documentation
 - o Mutual aid agencies informed
 - o Application at civil disorder events



Always remember our primary goal of safely protecting our citizens' first amendment rights. Represent the department and law enforcement with compassion, discipline, and professionalism.



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